

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§
	§
Plaintiff,	§
	§
v.	§ CRIMINAL ACTION NO. 4:16CR131
	§
ERIKA CONSUELO SEPULVEDA-PINA	§
	§
Defendant.	§

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 20, 2018, to determine whether Defendant violated her supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Will Tatum.

Erika Consuelo Sepulveda-Pina was sentenced on April 27, 2011, before The Honorable Micaela Alvarez of the Southern District of Texas, Laredo Division, after pleading guilty to the offense of Conspiracy to Possess with the Intent to Distribute in Excess of 1 Kilogram of Heroin, a Schedule I Controlled Substance, a Class A felony. This offense carried a statutory maximum imprisonment term of Life. The guideline imprisonment range, based on a total offense level of 29 and a criminal history category of II, was 97 to 121 months. Erika Consuelo Sepulveda-Pina was subsequently sentenced to 70 months of imprisonment followed by a 3-year term of supervised release subject to the standard conditions of release, plus special conditions to include mental health treatment, deportation, and \$100 special assessment. On November 23, 2015, Erika

Consuelo Sepulveda-Pina completed her period of imprisonment and began service of the supervision term in the Eastern District of Texas. A transfer of jurisdiction was completed on August 12, 2016, and the case was assigned to United States District Judge Marcia A. Crone. On September 14, 2016, a motion to revoke Sepulveda-Pina's supervised release was filed in the Eastern District of Texas with allegations that included possession of cocaine and heroin, submitting urine specimens that tested positive for the use of an illicit substance, and failing to participate in mental health treatment. On October 31, 2016, Sepulveda-Pina appeared in Court before United States Magistrate Judge Kimberly C. Priest-Johnson, and her supervised release was revoked. She was subsequently sentenced to 8 months of imprisonment followed by a 1-year term of supervised release.

On October 16, 2017, the United States Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 21, Sealed]. The Petition asserted that Defendant violated two (2) conditions of supervision, as follows: (1) Defendant shall not unlawfully possess a controlled substance; and (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following acts: (1) and (2) On May 19, 2017, the defendant submitted a urine specimen that tested positive for amphetamines. The defendant admitted verbally and in writing to using Adderall, a prescription medication not prescribed to her. On June 16, 2017, the defendant submitted a urine specimen that tested positive for cocaine; on July 14, 2017, the defendant submitted a urine specimen that tested positive for amphetamines, morphine, and methamphetamine; and on September 22, 2017, the defendant submitted a urine specimen that tested positive for methamphetamine. All specimens were

confirmed positive by Alere Toxicology Services. On June 30, 2017, during a field visit, the defendant admitted verbally and in writing to using heroin on June 28, 2017.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations one (1) and two (2) of the Petition. Having considered the Petition and the plea of true to allegations one (1) and two (2), the Court finds that Defendant did violate her conditions of supervised release.

Defendant waived her right to allocute before the District Judge and her right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that she be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months plus one (1) day, with no term of supervised release to follow.

The Court also recommends that Defendant be housed at FMC Carswell, if appropriate.

SIGNED this 28th day of December, 2018.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE